

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 14-289

v. * SECTION: "G"

PAUL GARDNER *

* * *

FACTUAL BASIS

Should this matter have proceeded to trial, the government would have proven, through the introduction of competent testimony and admissible evidence, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant.

The government would establish that for approximately the past thirty years, defendant, **PAUL GARDNER** ("GARDNER"), operated a part-time tax preparation and consulting business under the name Paul E. Gardner, C.P.A. out of his home in New Orleans. In October 2007, **GARDNER** was hired by Clovelly Oil Co., L.L.C. ("Clovelly Oil" or "Clovelly") as a part-time bookkeeper responsible for recording the receipts and disbursements for Clovelly.¹

¹ Clovelly was a closely held oil and gas exploration business domiciled in Wilmington, Delaware and headquartered in New Orleans, Louisiana.

Defendant's Initials PG

Fee _____
Process _____
X Dktd _____
CtRmDep _____
Doc. No. _____

Page 1

GARDNER also prepared the royalty checks for Clovelly's more than two-hundred owners. In addition, **GARDNER** handled the bi-weekly payroll for all of Clovelly's employees and he was responsible for paying himself.

The government would establish that beginning on August 31, 2010, and continuing until his termination on June 20, 2014, **GARDNER** embezzled \$1,798,000 from Clovelly Oil. **GARDNER** accomplished this scheme by manipulating the bi-weekly payroll records of Clovelly. **GARDNER** logged into Clovelly's on-line Whitney Bank accounting system every two weeks using his username and password given to him so he could prepare Clovelly's payroll. Beginning on August 31, 2010, **GARDNER** began increasing his bi-weekly compensation by sometimes as much as \$20,000.

Originally, **GARDNER** transferred the embezzled funds into his Whitney Bank account. However, in 2011, **GARDNER** opened a new bank account with Iberia Bank to conceal the illegal funds from his spouse who was unaware of his actions. **GARDNER** admitted that his motivation for the theft was to cover gambling debts incurred at a local casino. Through his attorney, **GARDNER** self-reported his theft from Clovelly.

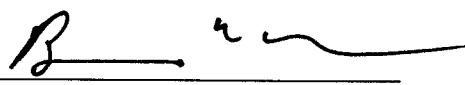
The government would establish that the Automated Clearing House ("ACH") is a nationwide system that processes electronic payments on behalf of financial institutions in accordance with the rules of the National Automated Clearing House Association. Instead of exchanging paper checks, the ACH system allows for electronic payments from one financial institution to another. Approved business customers use the ACH system to originate payments or collections through their financial institution. Clovelly Oil was an approved business customer of Whitney Bank and utilized the ACH system for processing payroll and other payments to employees and vendors.

The government would further establish that **GARDNER** conducted a series of ACH wire transfers resulting in nearly \$1,800,000.00 being transferred from bank accounts maintained by Clovelly Oil into personal bank accounts held by **GARDNER**. Specifically, **GARDNER** caused the following bank wire transfer, among others, to be transmitted in interstate commerce, by means of a wire communication:

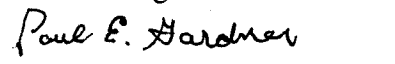
ORIGINATING BANK	RECIPIENT BANK	WIRE AMOUNT	DATE OF WIRE TRANSFER
Whitney Bank Gulfport, MS	Iberia Bank Lafayette, LA	\$20,000.00	April 8, 2014

The government would further establish that Whitney Bank was a domestic financial institution headquartered in Gulfport, Mississippi and that Iberia Bank was a domestic financial institution headquartered in Lafayette, Louisiana. The government would establish that the April 8, 2014, ACH wire transfer charged in the Bill of Information and referenced above was transmitted in interstate commerce.

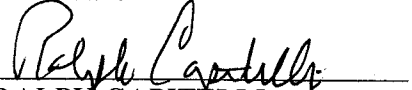
Various records and testimonial evidence, including testimony from representatives of the Federal Bureau of Investigation, Clovelly Oil, and other witnesses and financial records would also be admitted to prove the facts set forth above.


 BRIAN M. KLEBBA
 Assistant United States Attorney
 New York Reg. No. 2938728

1/29/15
 Date


 PAUL GARDNER
 Defendant

1/29/15
 Date


 RALPH CAPITELLI
 Counsel for Defendant

1/29/15
 Date

Defendant's Initials PG